

INTRODUCTION

The BSA was introduced on a domestic building basis but has expanded to attempt to cover the ever increasing problems of the entire building and construction industry. The Building Services Authority is no longer that and performs under an obsolete act. The Act itself is written in unnecessary and misleading terms certainly not in terms relative to be understood by those in the building industry. In my experiences the really successful entities restrict activities to their areas of expertise. The BSA has grown beyond its own control.

I attempted to resolve how to encompass, under the one body, all things best for the industry. However, I can at this time only offer my suggestions, which I trust, if taken on board with all those the committee receives will allow for such an outcome.

SUGGESTIONS FOR CONSIDERATION

1. Dismantle the BSA and reconstitute it under a new act which clearly defines, in laymans terms, its operation and responsibilities. They currently appear to operate within a culture that will not recognise their duty to subcontractors but prefer it seems to only look after the interests of a few of the large contractors. The senior staff in many cases seem to be placed in positions well beyond their abilities and their knowledge of the industry. The BSA, for example, licence certifiers but have no knowledge of a certifier's duties required by the BCA, the BA and Australian Standards.
2. Remove the Board as a Board could never be found to satisfy such a diverse industry and could only hinder the operations of the BSA. In my 20 years as a licence holder I have never been informed of the Board or of anything they have done. The current members sadly are generally not at the coal face of the industry and would not therefore provide relevant input. The best information we received was through the BSA's own 3 monthly magazine, now not produced. This should be started again and also used as a tool for the BSA to both survey the industry and gather relevant information from licenced persons.
3. National licencing to be put in place at the earliest time.
4. Fair contracts (matching head & subcontracts) to be introduced as previous ones have been allowed to be altered and many extra, often dubious, conditions added with the threat of not getting work or not being paid on refusal to accept them. Such contracts need to especially address the problems of variations (being forced to do these without acceptance and not being paid) back charges deducted without notice and payments. The issue of Practical Completion Certificates also requires formulation
5. Reintroduction of nominated subcontractors and suppliers to stop head contractors using Dutch Auctions to unfairly allow others to offer reduced prices only for the benefit of the head contractors profit.
6. Security of payments is vital to our economy and to achieve lower client costs. The only way to obtain this I believe is to have the Project Funds held in a trust account prior to the start. A return to the Head Contractor being paid 7 days after the end of the month for which that work is carried out and the Head Contractor in turn pays the subcontractors and suppliers 7 days later which in conjunction with a revised BCIPA would greatly improve security of payment.

7. Retention monies, only ever to be a maximum of 5%, and held in a BSA trust account with the interest, probably \$40M annually, to assist funding of the BSA with any excess paid to consolidated funds.

8. The BCIPA requires a complete overhaul as it fails to protect contractors, subcontractors and suppliers alike. It must address, together with those Items 4 to 7 above, the current situation where 35 day payments allow the loss of 2 months of progress claims and full retention. This puts almost any business, that faces this situation, at risk of failing. Also the system of respondents appealing against awarded adjudications needs to be restricted with at least:

- a. The adjudicated amount paid into the court.
- b. A strike out clause to be provided.
- c. All appeals against adjudication to be listed with the BSA, as only a few do the majority of appeals.
- d. All appeals to be subject to an immediate arbitration by the BSA and not the Court process.

Refer Example 1 below.

9. Design licences to be removed from the BSA charter and restricted to those licenced with bodies for professionals such as the Board of Engineers, Board of Architects etc.

10. Insurance evidence to be submitted for BSA licence renewals.

11. Certification to either be controlled by a body such a Board of Certifiers for licencing, compliance, etc or perhaps better revert all certification back to Local Government. Refer Example 2 below.

CONCLUSION

We find after two and a half years, and living in one of the greatest countries in this world, there is almost no capacity to protect our people from white collar crime. We dealt in this period with ASIC, ATO, CMC, QPS, BSA, Supreme Court, QFRS, GCCC with matters such as fraud, conversion, break and enter, theft, perjury, assault threats and professional misconduct and no help came. All this arose from the actions of one person with his loan provider being complicit in catalysing the outcome.